

8th Annual Green Power Marketing Conference

Chicago

4 November 2003

Regulatory Issues for Renewable Energy Certificates



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State Regulatory Jurisdiction

- RECs are not the same as electricity, and RECs are not regulated for price (in general)
- But states set market rules for some programs, which may include price caps, life, banking, etc
 - RPS, environmental disclosure, public benefits funds
- REC markets also exist outside of public policy programs, where they are not regulated
 - REC marketer sells to retail customers: unregulated
 - REC sale to a utility creates a cost which may or may not be allowed by regulators

Beyond Jurisdiction... Why Do Regulators Care?

- RECs are closely related to electricity
- State policies that regulators enforce may be reliant on RECs
- Setting rates is a regulatory function
- Consumer protection is a regulatory function
 - shared by consumer advocates and attorneys general
- Regulators may be asked to adjudicate on the ownership of RECs

Policy Rationale

- Regulators are usually the ones charged with overseeing RPS implementation
 - States may require RECs to verify RPS compliance
- Regulators are responsible for overseeing information disclosure and electricity labeling
 - may use RECs (or GACs) to verify claims
- Energy and air regulators are aware of the intersection of RECs and emission reductions
 - decisions that each makes affect the other
 - e.g. RE eligibility for emission trading, or rules requiring whole RECs for RPS

Rate-Setting Rationale

- RECs for RPS or other mandates should be included in the cost of service and charged to all ratepayers
- Utilities that acquire RECs through owned generation or PPAs, the cost of which is included in rates, should not sell the RECs to others without compensating ratepayers
- RECs bought and paid for by all ratepayers should not be used in green pricing programs

Consumer Protection Rationale

- *Double sale* of RECs to two parties should be prohibited
 - fraud can occur in markets lacking an adequate REC tracking system, especially in cross-border sales
- *Partial double sales* are problematic
 - disaggregating REC attributes and selling the CO2 offset to one party, and representing the remaining attributes as renewable energy to another party, can lead to market confusion
 - discouraged by NAAG in Green Electricity Marketing Guidelines

Buy Wind-ex*

Electricity generated from renewable
wind, with NOx emission reductions**

*NOx is nitrogen oxide, a pollutant released during the combustion of fossil fuel, and a contributor to smog and regional haze.

**Does not include carbon, SOx, and mercury reduction benefits.

More Consumer Protection

- *Double claims* arise when two parties claim the same benefit
 - a retail supplier buys electricity from a RE generator and sells the RECs to a third party, but claims the renewable energy on its disclosure label
 - a utility offers green pricing and uses the same RECs to satisfy a state mandate--both the customers and the utility claim the REC. This also shifts the cost of RPS compliance to green customers
- Best protection is a registry and tracking system

More Consumer Protection

- *Double use* occurs when one owner uses the same REC for two purposes
 - for green power marketing and for emission reduction credits
 - for green purchase claim and for GHG registry
- Whether double use should be allowed depends on individual program rules
 - is the intent of the program to create additional environmental or social benefits?

REC Property Rights

- Who owns RECs under QF (PURPA) contracts?
 - utilities, generators, customers?
 - a few states had been asked to decide
- FERC declaratory order says generators own RECs from QFs
 - absent explicit contract provisions to the contrary
 - if not PURPA contract, state may decide ownership
 - docket no. EL03-133-000, October 1, 2003
- Any new contracts should be explicit about RECs

Utility Net Metering

- Does net metering transfer RECs to utilities?
 - most net metering agreements are silent
 - if customer-owned, then customer should get RECs, at least for amount consumed on site
 - if utility-owned or leased, then utility should get RECs
 - for NEG, decision may turn on what the utility is paying, but it is debatable
- State regulators may have to decide, considering the effect of incentives to DG and utilities

REC Tracking Role for Regulators

- Without tracking, errors (or fraud) are easier
- Regulatory support is key to development of tracking systems
 - buy-in is essential, participation is important
 - who will pay for tracking systems without a mandate?
- Key issues for regulators
 - RECs only or all generation attribute tracking
 - single state or multi-state system
 - imports and exports between tracking systems

Conclusions

- RECs are not the policy objective--they facilitate state policies and programs and voluntary markets
- Regulatory interest in RECs is manifested in several ways
- Regulators are getting informed
 - NARUC resolution (7/02) encourages RTO/ISO regions to help develop tracking systems
 - CRS' *Regulators' Handbook on Tradable Renewable Certificates*